

REMARKS

Claims 1, 5-17, and 31-40 are pending in the present application. Claims 2-4 and 18-30 were previously canceled. Claims 1, 9, 10, 12, 13, 31, 37, 39, and 40 have been amended herein. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

Claims 1, 5-17, and 31-40 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 6,839,767 (hereinafter “Davies”), in view of U.S. Patent No. 6,366,559 (hereinafter “Krishnan”) and U.S. Patent Application Publication No. 2002/0036981 (hereinafter “Park”). Applicants respectfully traverse these rejections.

Applicants’ claim 1 has been amended to recite, “wherein the measuring begins when a reservation level reaches a rate that is lower than the maximum sum of forwarding resources, each measuring being performed over a period of time.” This limitation is not taught or suggested by the recited references.

Applicants note that the Office Action asserted that Davies, Fig. 5 and column 11, line 53 – column 12, line 6, discloses the previously recited limitation, “the measuring begins at a rate that is lower than the maximum sum of forwarding resources.” While Applicants’ disagree for the reasons discussed below, Applicants have amended claim 1 as discussed above in an attempt to move this case forward.

As explained in Applicants’ specification with reference to Figs. 2-4, “Measurements are initiated when the reservation level (res) reaches a fraction of res_max called measure_th.” Thus, Applicants’ claim 1 explicitly recites that the measurements begin at a first rate (“a rate that is lower than the maximum sum of forwarding resources”) and continue for a period of time.

In contrast, the Office Action identified the following section of Davies.

. . . The sender 4 periodically measures this current bandwidth usage, for example, after a grant of a new session, termination of an existing session, or upon receiving a congestion notification. The sender 4 sends these measurements to the admission controller 20 in sender messages.

FIG. 6 is a flow chart of an embodiment of the step 62 of determining the acceptability of the new session with respect to the local threshold. The step 62 starts with step 100 of assessing the bandwidth required for the new session. Then in step 105 the current bandwidth usage (CBU) of the path 10b or aggregate data flow 10 is measured. This step 105 is followed by step 106 of adding the assessed bandwidth requirement to the current bandwidth usage to get an assessed total bandwidth usage (ATBU). Then step 108 compares the assessed total bandwidth usage to the local threshold in order to determine whether the request for the new session should be granted or denied. If the sum is less than the local threshold, then the request for the new session should be granted, which is done by the step 64, otherwise the request should be denied, which is done by the step 66.

(Davies, column 11, line 53 – column 12, line 6.)

As can be seen from the description, Davies only discloses that the measurements are made at certain events, *e.g.*, after a grant of a new session, termination of an existing session, or upon receiving a congestion notification. There is no disclosure that any of these events correspond to a rate that is lower than the maximum sum of forwarding resources. Furthermore, there is certainly no disclosure that “the measuring *begins* when a reservation level reaches a rate that is lower than the maximum sum of forwarding resources” as recited in amended claim 1.

In view of the above remarks, Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 5-17 depend from claim 1 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants have amended claim 31 to recite, “wherein the measuring begins when a reservation level reaches a rate that is lower than the maximum sum of forwarding resources, each measuring being performed over a period of time.” As discussed above, the cited references fail to teach or suggest these limitations. Accordingly, Applicants respectfully request

that the rejection of claim 31 be withdrawn. Claims 32-40 depend from claim 31 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Roger C. Knapp, Applicants' Attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

SLATER & MATSIL, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, Texas 75252
Tel.: 972-732-1001
Fax: 972-732-9218

/Roger C. Knapp/
Roger C. Knapp
Attorney for Applicants
Reg. No. 46,836